IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Crl.Rev.Pet.No. 3655 of 2007()

CRA.480/2004 of II ADDL. SESSIONS COURT, TRIVANDRUM
ST.209/2002 of CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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REVN. PETITIONER: PETITIONER

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1. G.S.JAYACHANDRAN NAIR, PRESIDENT,
   TAXI DRIVERS CO-OPERATIVE SOCIETY LTD. NO.142,
   VAZHUTHACAUD, THIRUVANANTHAPURAM.

2. C.VIJAYAKUMARAN NAIR, SECRETARY
   TAXI DRIVERS CO-OPERATIVE SOCIETY LTD NO.142
   VAZHUTHACAUD, THIRUVANANTHAPURAM.

BY ADV. SRI.SUMAN CHAKRAVARTHY

RESPONDENTS: RESPONDENTS/COMPLAINANT AND STATE

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1. B.VIJAYAKUMAR, KOTTARAMVILA VEEDU,
   MUDAVANMUGAL, POOJAPPURA, THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3655 OF 2007

Dated this the 10th day of October, 2007

O R D E R

In this Revision filed under Section 397 read with Sec. 401 Cr.P.C. the petitioners who were the accused in S.T. No.209/2002 on the file of the C.J.M., Thiruvananthapuram challenge the conviction entered and the sentence passed against them for an offence punishable under Sec. 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act').

2. I heard the learned counsel for the Revision Petitioners and the learned Public Prosecutor.

3. The learned counsel appearing for the Revision Petitioners re-iterated the contentions in support of the Revision. The courts below have concurrently held that the cheque in question was drawn by the revision petitioners in favour of the complainant on the drawee bank, that the cheque was validly presented to the bank, that it was dishonoured for reasons which fall under Section 138 of the Act, that the complainant made a demand for payment by a notice in time in accordance with clause (b) of the proviso to Section 138 of the Act and that the Revision Petitioners/accused failed to make the payment within 15 days of receipt of the statutory notice. Both the courts have

considered and rejected the defence set up by the revision petitioners while entering the above finding. The said finding has been recorded on an appreciation of the oral and documentary evidence. I do not find any error, illegality or impropriety in the finding so recorded concurrently by the courts below. The conviction was thus rightly entered against the revision petitioners.

4. The sentence imposed on the revision petitioners also cannot be said to be harsh or disproportionately excessive and the same is accordingly confirmed.

This Revision is accordingly dismissed.

(V. RAMKUMAR, JUDGE)

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